

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE AVERN COHN

v.

No. 07-20084

JIVAN YAKOOB,

Defendant.

/

PLEA HEARING

Thursday, February 12, 2009

Appearances:

Jeanine M. Jones
U.S. Attorney's Office
211 W. Fort Street, #2300
Detroit, Michigan 48226
(313) 226-9100
On behalf of Plaintiff

John Freeman
Law Office of John Freeman
3150 Livernois, #270
Troy, Michigan 48083
(248) 250-9950
On behalf of Defendant

- - -

To obtain a certified transcript, contact:
Sheri K. Ward, Official Court Reporter
Theodore Levin United States Courthouse
231 West Lafayette Boulevard, Room 219
Detroit, Michigan 48226
(313)965-4401 • ward@transcriptorders.com

Transcript produced using machine shorthand and CAT software.

Plea Hearing
Thursday, February 12, 2009

I N D E X

<u>Plea Hearing</u>	<u>Page</u>
Factual Basis for the Plea	9
Findings of the Court	10
Certification of Reporter	12

- - -

Plea Hearing
Thursday, February 12, 2009

3

1 Detroit, Michigan

2 Thursday, February 12, 2009

3 10:41 a.m.

4 - - -

5 **THE CLERK:** Now calling Case Number 07-20084,
6 *United States of America v. Jivan Yakoob.*

7 Will counsel please identify themselves for the record.

8 Come on up, please.

9 **MS. JONES:** Good morning, Your Honor, Jeanine Jones
10 on behalf of the United States.

11 **MR. FREEMAN:** Good morning, Your Honor, John Freeman
12 on behalf of Mr. Yakoob, who is present here in court.

13 **THE COURT:** You are Jivan Yakoob?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** And you are here to plead guilty to
16 Count 2 of the indictment?

17 **THE DEFENDANT:** Yes.

18 **THE COURT:** Okay. Before accepting your plea I have
19 some questions to ask you to be sure that it's a good plea and
20 you know what you are doing. If you don't understand a
21 question, say so. If you want to talk to Mr. Freeman, say so.
22 Do you understand that?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** Swear him.

25 **THE CLERK:** Raise your right hand.

07-20084; U.S.A. v. Jivan Yakoob

1

- - -
2 JIVAN YAKOOB,

3

being first duly sworn by the deputy clerk to
4 tell the truth, was examined and testified
5 upon his oath as follows:

6

THE COURT: Do you understand that if you don't
7 answer a question truthfully you can be charged with perjury?

8

THE DEFENDANT: Yes.

9

THE COURT: How old are you?

10

THE DEFENDANT: 30.

11

THE COURT: How far did you go in school?

12

THE DEFENDANT: I finished one year of college. I
13 never finished my degree.

14

THE COURT: Okay. Have you ever been under a
15 doctor's care or in a hospital for drug addiction?

16

THE DEFENDANT: No, sir.

17

THE COURT: Have you had any drugs or medicine or
18 anything to drink in the last 24 hours?

19

THE DEFENDANT: No.

20

THE COURT: Do you have a lawyer?

21

THE DEFENDANT: Yeah.

22

THE COURT: Are you satisfied with him?

23

THE DEFENDANT: Yes.

24

THE COURT: Have you had a chance to talk to him?

25

THE DEFENDANT: Yeah.

1 **THE COURT:** You know under our Constitution and laws
2 you are entitled to a jury trial on the charges against you?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** You know if there was a trial you would
5 be presumed innocent, the government would have to overcome the
6 presumption and prove you guilty by competent evidence and
7 beyond a reasonable doubt and you would not have to prove you
8 were innocent?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** Do you understand in the course of a
11 trial witnesses would have to come into the courtroom and
12 testify in front of you and your lawyer could cross-examine
13 witnesses, object to the evidence offered by the government,
14 and offer evidence on your behalf?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** Do you understand that if there was a
17 trial you would have the right to use subpoenas to force the
18 attendance of witnesses whether they wanted to come into court
19 or not?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** Do you understand if there was a trial
22 you would have the right to testify if you wanted to, you would
23 have the right not to testify, and no inference or suggestion
24 of guilt could be drawn from the fact that you did not testify?

25 **THE DEFENDANT:** Yes.

Plea Hearing
Thursday, February 12, 2009

6

1 **THE COURT:** If you plead guilty and I accept your
2 plea, you know you waive your right to a trial and all of the
3 other rights I have described and there is not going to be a
4 trial and I will simply enter a judgment and sentence you on
5 the basis of your guilty plea?

6 **THE DEFENDANT:** Yes.

7 **THE COURT:** Now, considering all of that, are you
8 willing to give up all of these rights and plead guilty?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** Have you read the indictment?

11 **THE DEFENDANT:** Yes, I have.

12 **THE COURT:** And particularly Count 2, that's the
13 count you are going to plead guilty to?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** You know in Count 2 you are charged that
16 on or about November 17th, 2006 you traveled in foreign
17 commerce for the purpose of engaging in illicit sexual conduct
18 with another person who you believed to be under 14 years of
19 age and you used a computer to persuade, induce, entice and
20 coerce the victim to engage in a prohibited conduct?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** That's the charge. Do you know what the
23 maximum sentence under that charge is? That's Count 2.

24 **THE DEFENDANT:** 30 years.

25 **THE COURT:** That's right. Has anyone threatened you

1 or forced you to plead guilty?

2 **THE DEFENDANT:** No.

3 **THE COURT:** You have entered into a plea agreement
4 with the government, right?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** What's your understanding of the
7 agreement? What's the sentencing range in the agreement?

8 **THE DEFENDANT:** Can I just go through this for a
9 second?

10 **THE COURT:** What?

11 **THE DEFENDANT:** Can I just go through this for a
12 second?

13 **THE COURT:** Sure.

14 **THE DEFENDANT:** I can't remember exactly.

15 Okay. I believe it's 46 to 57 months.

16 **THE COURT:** Okay. You know that's under guidelines?

17 **THE DEFENDANT:** Yeah.

18 **THE COURT:** And that takes into consideration your
19 conduct, the statute, the fact you have no criminal history?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** And that's simply a recommendation to me?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** Okay. You also know there is a \$100
24 special assessment?

25 **THE DEFENDANT:** Yeah, I read that in here.

1 **THE COURT:** Okay. And you know if you go to prison
2 when you come out there's a period of 60 months supervised
3 release?

4 **THE DEFENDANT:** I wasn't aware of that, but yes.

5 **MS. JONES:** It's on Page 4, Paragraph B.

6 **MR. FREEMAN:** Your Honor, I, just for the record, I
7 have had an opportunity and have reviewed this very thoroughly
8 with my client. He also understands that the Court will be
9 looking at the factors in 18 U.S.C. 3553(a) when it comes to
10 sentencing.

11 **THE COURT:** You also know that there is a potential
12 fine of up to \$100,000?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** You also know you have to register as a
15 sex offender?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** And you know that you can't appeal?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Okay. Have we covered the whole thing?

20 **MS. JONES:** The key provisions, yes, Your Honor.

21 **THE COURT:** Has anyone made any promises to you other
22 than the plea agreement to get you to plead guilty?

23 **THE DEFENDANT:** No.

24 **THE COURT:** Has anyone made any prediction or
25 prophesy or promise to you as to what the sentence will be?

Plea Hearing
Thursday, February 12, 2009

9

1 **THE DEFENDANT:** No.

2 **THE COURT:** Did you, as charged in Count 1 --

3 **MS. JONES:** 2.

4 **THE COURT:** -- Count 2 engage in the prohibited
5 conduct?

6 **THE DEFENDANT:** Yes.

7 **THE COURT:** Now, we had a four-day evidentiary
8 hearing and you were present?

9 **THE DEFENDANT:** Yes, I was.

10 **THE COURT:** And it described in meticulous detail
11 exactly what you did; is that correct?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** And that four days of testimony was a
14 correct description of your illegal conduct. Is that a fair
15 statement?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** Okay. You tell me just briefly in your
18 own words what you did.

19 **THE DEFENDANT:** Well, from October 4, 2006 through
20 November 17 I engaged in some conversation with an undercover
21 who I believed to be underage.

22 **THE COURT:** And where was the undercover person?

23 **THE DEFENDANT:** In Windsor, in Canada.

24 **THE COURT:** And what was the end objective of the
25 conversation?

Plea Hearing
Thursday, February 12, 2009

10

1 **THE DEFENDANT:** Oh.

2 **THE COURT:** Was it to have sex with this person?

3 **THE DEFENDANT:** Yes, I traveled to Canada for that
4 reason.

5 **THE COURT:** With the expectation of going to bed with
6 her?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** Is that a fair statement?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** And you know that that conduct was
11 illegal?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** And you used a computer to converse with
14 her?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** Okay. Anything more?

17 **MS. JONES:** Just one question. Mr. Yakoob, you said
18 that the person was underage. Was this someone who you
19 believed to be 13 years old?

20 **THE DEFENDANT:** Yes.

21 **MS. JONES:** The government is satisfied.

22 **THE COURT:** Okay. Since you acknowledge you are in
23 fact guilty as charged; since you know you have a right to
24 trial and what the maximum punishment is; and since you are
25 voluntarily pleading guilty, I accept your plea of guilty and

Plea Hearing
Thursday, February 12, 2009

11

1 enter a judgment of guilty. I find your plea is free and
2 voluntary, you understand the charge and penalty, the plea
3 agreement has been properly executed, and there is a factual
4 basis for the plea. The clerk is ordered to enter the plea of
5 guilty.

6 You now stand convicted. I'm going to get a presentence
7 report. Mr. Freeman will explain to you what that is, and you
8 will be expected to cooperate with the probation officer and be
9 back here at the time and date set for your sentencing. If you
10 are not, that's a separate offense which carries the potential
11 of five years.

12 **MS. JONES:** Your Honor, just one last thing, and I'm
13 sorry.

14 **THE COURT:** That's okay.

15 **MS. JONES:** Just during the factual basis Mr. Yakoob
16 said that he did drive to Canada for the purpose of having
17 sexual intercourse with someone he believed to be 13, but he
18 didn't say where he drove from, just so we know that it was
19 within the Eastern District of Michigan.

20 **THE COURT:** You drove from Warren, didn't you?

21 **THE DEFENDANT:** Yes.

22 **MS. JONES:** And Warren, Michigan is within the
23 Eastern District of Michigan?

24 **THE COURT:** From Warren, Michigan you drove across
25 the border to Canada, didn't you?

Plea Hearing
Thursday, February 12, 2009

12

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** I appreciate your efforts in this case,
3 Ms. Jones.

4 **MR. FREEMAN:** What about me?

5 **THE COURT:** Thanks.

6 **MR. FREEMAN:** Take care, Judge.

7 **THE COURT:** Wait just a minute, Mr. Freeman. I
8 appreciate your efforts today.

9 **MR. FREEMAN:** Thank you, Your Honor.

10 (Proceedings concluded at 10:49 a.m.)

11 - - -

12 C E R T I F I C A T I O N

13 I, Sheri K. Ward, official court reporter for the
14 United States District Court, Eastern District of
15 Michigan, Southern Division, appointed pursuant to the
16 provisions of Title 28, United States Code, Section 753,
17 do hereby certify that the foregoing is a correct
18 transcript of the proceedings in the above-entitled cause
19 on the date hereinbefore set forth.

20 I do further certify that the foregoing
21 transcript has been prepared by me or under my direction.

22
23 s/ Sheri K. Ward
24 Sheri K. Ward
 Official Court Reporter

August 15, 2011
Date